

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MALIBU MEDIA, LLC,

Plaintiff,

-against-

JOHN RIOS,

Defendant.
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18 Civ. 346 (PGG) (GWG)

ORDER

GABRIEL W. GORENSTEIN, United States Magistrate Judge:

This matter is before the Court to conduct an inquest for damages. In an Order dated August 27, 2020 (Docket # 61) (“August 27 Order”), the Court required plaintiff to serve defendant with a copy of the Court’s August 27 Order and a copy of the Proposed Findings of Fact and Conclusions of Law. The Order required plaintiff to make service by mail at defendant’s last known address and to do so no later than October 13, 2020.

We will put to one side that plaintiff violated the Court’s August 27 Order by submitting only a memorandum of law and not any proposed findings of fact. Even assuming that the memorandum of law filed by plaintiff (Docket # 62) was sufficient, we cannot tell from the record whether plaintiff complied with the portion of the August 27 Order requiring service. The only Certificate of Service filed states that service was made of the memorandum and that it was served “using CM/ECF.” (Docket # 62). This is plainly insufficient inasmuch as (1) it does not indicate the August 27 Order itself was timely served; and (2) it did not use the method of service required by the Court’s August 27 Order. Indeed, given that the defendant does not receive notifications from the ECF system, it seems no method of service was used at all.

Accordingly, if plaintiff did in fact timely mail defendant a copy of its memorandum of law and the Court’s August 27 Order, plaintiff shall file an affidavit of service on or before February 2, 2021 so stating. If it did not do so, it shall so inform the Court in a letter filed on or before that date explaining why the Court’s Order was not complied with.

SO ORDERED.

Dated: January 27, 2021

New York, New York


GABRIEL W. GORENSTEIN

United States Magistrate Judge